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R E M A R K S

Reconsideration of the present application in view of the amendments and following remarks is respectfully requested. Claims 14, 41-43 and 52-63 were previously canceled. Claims 48 and 49 are currently canceled. Claims 1, 26 and 44 are currently amended. Forty-five claims are pending in the application: Claims 1-13, 15-40, 44-47 and 50-51.

35 U.S.C. 102

1. Claims 1-6, 13, 15-19, 21-23, 26-29, 32, 33, 44-51 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,992,797 (*Siedel et al.*).

Siedel et al. discloses an aircraft having a dual upper deck. A cross section of a portion of the aircraft is shown in Fig. 3 of *Siedel et al.* The cross section of the aircraft includes a vertical axis that passes through a top of the aircraft and divides the aircraft into two sides. As shown in Fig. 3, both the side of the aircraft to the left of the vertical axis and the side of the aircraft to the right of the vertical axis have the same curvatures.

In contrast, Applicant has amended claim 1 to recite "a first side of the cross-section having a first curvature; and a second side of the cross-section having a second curvature; wherein a vertical axis passing through a top of the fuselage separates the first side of the cross-section from the second side of the cross-section, wherein the first side of the cross-section is laterally situated on one side of the vertical axis and the second side of the cross-section is laterally situated on

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an opposite side of the vertical axis; wherein the first curvature is different from the second curvature." Applicant's have amended the claim to clarify that the first side of the cross-section and the second side of the cross section are defined in relation to a vertical axis that passes through the top of the fuselage.

The Examiner has equated the top side passenger area of *Siedel et al.* to the claimed first side of the cross-section. The Examiner has further equated the bottom side passenger and cargo area of *Siedel et al.* with the claimed second side of the cross-section. Applicant's respectfully submit that the amendment to claim 1 clearly defines a reference frame (i.e., a vertical axis passing through a top of the fuselage) such that *Siedel et al.* does not teach or suggest the limitations of claim 1. That is, *Siedel et al.* has two identical curvatures in relation to the vertical axis passing through the top of the aircraft.

Therefore, Applicant respectfully submits *Siedel et al.* does not teach or suggest "a first side of the cross-section having a first curvature; and a second side of the cross-section having a second curvature; wherein a vertical axis passing through a top of the fuselage separates the first side of the cross-section from the second side of the cross-section, wherein the first side of the cross-section is laterally situated on one side of the vertical axis and the second side of the cross-section is laterally situated on an opposite side of the vertical axis as the first side of the cross-section; wherein the first curvature is different from the second curvature," as claimed by Applicant.

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Applicant has amended independent claim 26 similarly to the amendments that were made to claim 1. For all of the same reasons stated above *Siedel et al.* does not teach or suggest the limitations of claim 26. Furthermore, all of the pending dependent claims are not anticipated by *Siedel et al.* at least because of their dependency upon independent claims 1 or 26. Thus, Applicant respectfully submits the rejection is overcome and should be withdrawn.

35 U.S.C. 103

2. Claims 30 and 31 stand rejected under 35 U.S.C. 103(a) as being obvious in view of U.S. Patent No. 5,992,797 (*Siedel et al.*).

As described above in relation to the rejection under 35 U.S.C. 102(b), *Siedel et al.* does not teach or suggest the limitations of independent claims 26. Furthermore, Applicant respectfully submits that there would be no motivation to modify *Siedel et al.* such that the aircraft of *Siedel et al.* would have two sides with different curvatures as defined in amended claim 26. Therefore, Applicant respectfully submits the rejection is overcome and should be withdrawn.

Claim Objections

3. Claims 44 and 48-49 were objected to by the Examiner. Applicant has amended claim 44 as suggested by the Examiner and has canceled claims 48-49. Therefore, Applicant respectfully submits the objections are overcome.

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C O N C L U S I O N

In view of the above, Applicant submits that the pending claims are in condition for allowance, and prompt and favorable action is earnestly solicited. Applicant has made a diligent effort to place the claims in condition for allowance. However, should there remain any outstanding issues that require adverse action, it is respectfully requested that the Examiner telephone Thomas F. Lebens at (805) 781-2865 so that such issues may be resolved as expeditiously as possible.

Respectfully submitted,



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